

G O O D Counsel

NEWSLETTER OF THE
AIDS LAW PROJECT OF
PENNSYLVANIA SPRING 2006

Media and public weigh in as company wants out

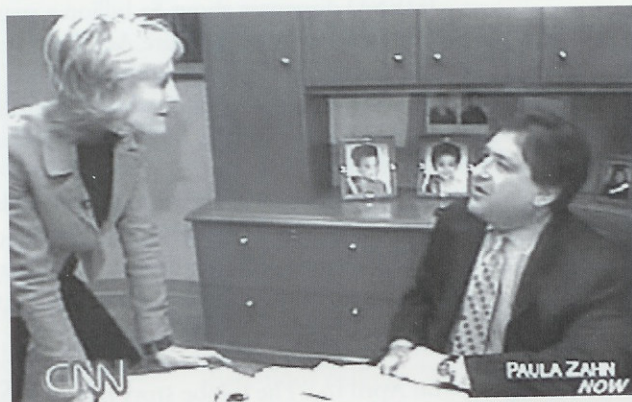
In 18 years of service the AIDS Law Project of Pennsylvania has given justice with dignity to thousands of clients, but few cases have outraged the media and public like *M. Smith vs. Life Partners, Inc.*

Last summer Ms. Smith came to us for help when Life Partners, Inc. (LPI), a publicly traded viatical company based in Waco, Texas, said it would no longer honor its contractual obligation to pay her combined life and health insurance premiums for the rest of her life.

Ms. Smith, now 50, had been diagnosed with cancer and AIDS in 1992 and given a two-year life expectancy. Seeing a magazine advertisement offering to buy life insurance policies for a percentage on the dollar, she responded. She had none of the traditional dependents that life insurance is intended to protect and she thought that selling the policy seemed like a sensible way to gain financial security for her final days.

The only wrinkle in this plan was that Ms. Smith's life insurance was billed along with her health insurance as part of a group plan. LPI didn't see that as an obstacle, though, and agreed to pay the premiums on the health and life insurance policies for the rest of her life. Ms. Smith was offered about \$90,000 and a signed contract stipulating those premiums would be paid in exchange for her \$150,000 policy. LPI then put \$5,500 of her money into trust to pay the health insurance premiums for the two years the company expected Ms. Smith to live.

In 1996, Ms. Smith went on the newly discovered combination therapy. Ten years later, she is alive and well, and LPI no longer wants to pay the health insurance premiums that now amount to almost \$15,000 every six months.



M. Smith's breach-of-contract case struck a chord with media and public alike. AIDS Law Project *pro bono* co-counsel Jacob Cohn (above) of Cozen O'Connor explained it on CNN, which also ran the story on CNN.com. A Philadelphia Inquirer column (right) in January drew the first big response and led to spirited discussion on Internet blogs and in chat rooms.

SUNDAY, JANUARY 22, 2006

The Philadelphia Inquirer

Monica
Yant
Kinney

She beat odds; dealer won't pay

When M. Smith was diagnosed with cancer and AIDS in the early 1990s, she was given two years to live. That she is still very much alive today is good news — to everyone but the people who bet big on her dying. Had Smith perished on schedule, Life Partners Inc. would have made \$60,000 on a \$90,000 wager — a 66 percent return on the investment.

Instead, the company that expected to make a profit on Smith's life insurance policy wound up spending \$100,000 more keeping her alive. Now, Life Partners' attempt to wriggle out of the relationship has led to one of the most morbid contract disputes ever filed in New Jersey Superior Court.

Stung by the costly miscalculation, the publicly traded company (www.lpi.net) is balking at paying Smith's combined health- and life-insurance premiums. A stranger claiming to represent angry investors has twice called Smith at home to ask her how she was feeling. All of it has her lawyers wondering whether Life Partners is trying to hasten Smith's death with all the stress about whether she's going to lose her health insurance.

In March 1998, LPI wrote to Ms. Smith that the investors who had purchased her policy "are no longer willing to support the costs of your health insurance." Ms. Smith hired a private attorney to represent her. In response to a letter from that lawyer, LPI agreed to continue paying the premiums.

On Aug. 15, 2005, the day on which the premiums were due, LPI sent Ms. Smith a letter saying the company would no longer pay her health insurance premiums. Ms. Smith called in the experts of the AIDS Law Project of Pennsylvania.

To help the AIDS Law Project represent this woman in an ongoing claim against LPI, **Executive Director Ronda B. Goldfein, Esq.**, reached out to **Jacob "Jack" Cohn** of Cozen O'Connor. Jack enthusiastically volunteered to co-counsel on a case where the client's only offense was that she had not died on schedule.

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Good Counsel

NEWSLETTER OF THE
AIDS LAW PROJECT OF
PENNSYLVANIA

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*This newsletter is lovingly dedicated
to the memory of AIDS Law Project
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and Jonathan Lax, Intake Advocate
Arnold Jackson and VISTA Volunteers
Gary Bailey and David Bertugli.*

*If you know someone who would like to
receive a copy or need to let us know of
an address change, please call
215.587.9377.*

MESSAGE FROM THE EXECUTIVE DIRECTOR

If you're a close reader of this issue of Good Counsel, you'll see two contradictory articles. On the one hand, we have a story detailing how the AIDS Law Project of Pennsylvania just lost almost 10 percent of our budget in recent federal AIDS funding cuts because legal services are not considered essential.

The Health Resources and Services Administration (HRSA) dispenses about \$2 billion a year in federal funding from the Ryan White Care Act. Each year, local and state programs compete for shares of the pot, while HRSA provides guidance on how the money should be spent. This year, Pennsylvania – and many other Northeastern states – received an overall reduction in federal AIDS funding, which then was passed on to the various organizations that provide AIDS care.

But not all the organizations felt the reduction. HRSA's clear preference, which was adopted by our local HIV planning council, is that funding should not be reduced for the "core services" – medications; primary medical, dental or mental health care; case management or substance abuse. As a result, the AIDS Law Project lost \$84,000 in federal funding.

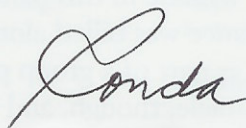
Compare that with our story about an article that appeared in the Boston Globe on April 10. The Globe story began: "Sometimes lawyers, not doctors, can be the key to good health." Health care providers at the Boston Medical Center consider legal services so essential to their patients' well-being that they have created a medical-legal partnership that they hope to replicate in every state. This unique collaboration encourages doctors to diagnose barriers to good health that the law can remove.

Last year the AIDS Law Project handled more than 1,900 requests from people with HIV/AIDS seeking disability benefits, insurance coverage or simply to remain in their homes.

In the past, I have used this space to share with you the ever changing face of AIDS legal services and some client victories along the way. Now I need to share a challenge that is threatening our ability to continue providing the services for which the residents of Pennsylvania have come to rely upon us over the last 18 years.

If you consider our services essential, please use the enclosed envelope to help us make up that loss. We still have a long way to go and can't do it without your support.

Thank you.




**Remember us at workplace giving time.
When you donor-designate in your workplace giving campaign,
remember your neighbors served by the AIDS Law Project.**

**United Way of SE PA Specific Care Option #09067
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Good Counsel is published semi annually by the AIDS Law Project of Pennsylvania for our friends, volunteers and colleagues committed to protecting the rights of people with HIV/AIDS. The AIDS Law Project responds to more than 1,900 legal service requests a year from people with HIV/AIDS, many of whom have nowhere else to turn for help. We help people navigate the legal system, the welfare system, the housing system and the worlds of public and private insurance. We provide education and training to thousands of professionals who work with people with HIV/AIDS.

All in a day's work

Gail Russell has her share of troubles.

The single mother has HIV, breast cancer and kidney problems requiring surgery. But thankfully she also has a case manager who looks out for her and takes on many new issues as they arise.

One of those issues was a letter from the Social Security Administration informing her that the agency would be withholding her forthcoming checks. The government records incorrectly showed that she had underreported income when she was working as a peer counselor at the Family Planning Council, a Philadelphia-based program for women, children, youth and families affected by HIV/AIDS. When Gail entered the hospital in February, she thought her case manager had filed paperwork on her behalf so her Social Security check would be continued while the mistake was investigated.

Yet when Gail came home from the hospital she found an unpleasant surprise. The Social Security issue had not been resolved and her March disability payment was not sent. Gail found herself with no money to feed her family or pay her monthly mortgage and utilities.

A call to Gail's case manager didn't help. The case manager was on vacation. In desperation, Gail turned for help to the AIDS Law Project of Pennsylvania, as she had on other occasions.

Paralegal Mehreen Zaman got the call at 9:35 in the morning on March 31 and got to work. She knew that Gail's next Social Security check was due on the third of the month and that she would not receive that check either without quick action.

By 11 Mehreen was calling Social Security with Gail on the line to find out which papers had been filed and which were needed. As Gail was too frail to leave the house, her case manager's assistant was dispatched to Gail's home with paperwork for signatures.

By noon Mehreen was explaining the situation to a Social Security district administrator, netting her a callback that afternoon from a technician qualified to issue a check. On Mehreen's promise that all the appropriate paperwork would be filed within 14 days, the technician agreed to issue a check.

On April 5, just two days after the regularly scheduled disbursement, Social Security deposited payments for two months into Gail's bank account. Social Security eventually found the original paperwork filed by Gail's case manager before going on vacation. It was sitting unchampioned in an inbox, where it would only have resulted in a check in May, by which time Gail would have been much more than a day late and a dollar short.



NAVIGATING THE SYSTEM

AIDS Law Project hits the ceiling over needed repairs

Lolita's Philadelphia Housing Authority (PHA) home was literally falling down around her. Rotting wood under the floors was causing tiles to crack and lift, making it difficult for her wheelchair-bound daughter to get around. Heavy leakage from cracks around her second-floor shower and bathtub was extensively damaging her first-floor ceiling. When a portion of the living room ceiling finally collapsed in January, leaving pipes exposed and rubble on the floor, the single mother (whose last name is withheld to protect her privacy) called the AIDS Law Project of Pennsylvania.

It had been two years since Lolita first came to the AIDS Law Project. At that time all she needed was a ramp so her daughter could get up and down the front steps by herself. She filled out a PHA request form but more than three months later nothing had happened. After the AIDS Law Project wrote a letter to PHA on her behalf, the ramp was installed.

This time, Lolita begged PHA to make repairs for more than a year before talking to **Staff Attorney Joe Cohn**. PHA had scheduled repairs on several occasions, but as often as not the maintenance crew failed to show up. When crews did come out, Lolita was frustrated because they lacked the tools or materials to do the job.

Joe called the PHA and requested a grievance hearing, which was scheduled for February. While waiting for the hearing date, he reviewed Lolita's PHA file and found it had long been marked "urgently needing repair."

At the grievance hearing PHA agreed to a prompt repair schedule. Two days later the repairs began. To hold the agency to its word, Joe visited Lolita's home and photographed the damage in case repairs were not made to her satisfaction. Lolita also was instructed to call if PHA did not keep to the repair schedule or did an inadequate job.

By early May, almost all the repairs had been made, and Lolita was happily putting a fresh coat of paint on her renovated rooms.

Parties with a purpose

Mark your calendars for our two forthcoming AIDS Law Project of Pennsylvania fund-raising events.

• **7th Annual Summer Movie Party.** Nothing says summer fun like an Elvis movie, and we offer a showing of *Easy Come, Easy Go* with quite a back story – it will be an homage of sorts to the late **Tony Chiango**, who ran the Roxy Screening Rooms in the early 1980s and whose personal collection included this very copy. The time and place is **Friday, Aug. 11, at 6 p.m. at 229 S. 18th St.** (between Devon and Bleu on Rittenhouse Square). **Secret Cinema** again has outdone itself in arranging this particular 1967 film featuring the King's vocal stylings on the songs "Love Machine" and "Yoga Is as Yoga Does." Once again our hostess is board member Joann Leszczynsky and her employer, Medical Broadcasting Company. For a \$20 minimum donation – *all of which is tax deductible* – you can (1) party in this hidden hipster hangout, (2) indulge in a sumptuous prescreening buffet, (3) drink at the bottomless bar, and (4) maybe win an exciting door prize. What makes this showing of *Easy Come, Easy Go* even more special is its provenance. The film comes from the estate of Mr. Chiango, who died of AIDS in 1991. His sister, Angel Chiango, wanted to place his collection in the hands of someone who would appreciate film the way he did. Secret Cinema's Jay Schwartz proved to be the ideal recipient, and Jay made the logical connection between *Easy Come, Easy Go* and the AIDS Law Project annual movie party. Angel is expected to attend and hopes to see her brother's old friends. Plus – special recognition for all Elvis impersonators. Seating is limited, so mail in your check or call in your credit card number today. Sponsorship opportunities are still available and start at \$100. For full sponsorship information call Naomi Geschwind at 215-587-9377.

Media and public weigh in

Continued from first page

In January 2006, Ms. Smith's legal team filed a complaint in the Chancery Division of Superior Court in Camden County, N.J., seeking – among other things – an injunction compelling LPI to continue paying all of her premiums, as it had promised to do.

The first news outlet to report the story was The Philadelphia Inquirer on Jan. 22, 2006, in a column headlined "She beat odds; dealer won't pay," by Monica Yant Kinney.

In that piece, Ms. Kinney interviewed all parties to the dispute and quoted from the contract: "Purchaser . . . agrees to make any necessary contributions to the escrow fund to pay future premiums in the event that escrowed funds are exhausted and Seller shall have no further liability for payment of premiums on the policy."



• **Jazz with James McBride.** The AIDS Law Project of Pennsylvania welcomes our favorite saxophonist (also known as the award-winning author of *The Color of Water*) and his band back to Philadelphia's premiere jazz venue, the Clef Club, on **Saturday night, Oct. 14.** Last year's concert was terrific and our most successful fund raiser ever. Watch for sponsorship information in the mail and event details on our Web site.

Four days after the Inquirer column, the Canadian Broadcasting Corporation interviewed Ronda Goldfein for a radio program.

On Jan. 29, Ms. Kinney followed up with a column entitled "Internet weighs in on insurer seeking out." "I was not expecting the international reaction to last Sunday's piece about M. Smith," she wrote.

The column went on to say that "it began Monday morning with Smith's lawyers getting calls from national and Canadian media. . . . It continued with tens of thousands of people reading the column online, e-mailing it to friends, and posting it on sites like www.fark.com and www.pandagon.net – where citizen scribes penned unprintable diatribes of disgust."

The following day the New Jersey Law Journal picked up the scene in an article headlined "Life for Sale," by Charles Toutant. Ms. Smith's case made an excellent illustration of the pitfalls of the business of viatical settlements to which Toutant gave an overview that included related pending legislation.

When the case went back to court in February, Ms. Kinney was on hand to hear New Jersey Superior Court Judge M. Allan Vogelstein tell LPI's attorney, "It takes all the judicial restraint I can muster not to characterize the conduct of this case." In a Feb. 21 column titled "Do the right thing, a judge cautions," she quoted him as saying, "The payment of the premiums is a cost of doing business."

On April 5, Jack Cohn and Ronda Goldfein appeared on CNN's Paula Zahn Now broadcast. That same day, CNN posted a story called "Patient's survival bad for business" on the Law Center section of its web site.

Now the case is slowly winding through the discovery process, but a resolution is expected by August when the next premium is due.

New and improved seminars

For 2006 the AIDS Law Project of Pennsylvania has revamped its seminars in response to popular demand. Our new **Housing Law** seminar teaches everything a tenant needs to know to stay in home sweet home. We also have enhanced our popular **Back to Work** and **Leaving Your Job** seminars with information to avoid debt and build a clean credit record.

Back to Work

Your medications are working and you're ready to get a job. This seminar covers the rules of returning to work so you won't lose the benefits that made you feel well enough to work in the first place. You'll also learn how to rebuild your credit now that you have income.

Second Tuesday of the month

- July 11, 12-2 p.m.
- Aug. 8, 5-7 p.m.
- Sept. 12, 12-2 p.m.
- Oct. 10, 5-7 p.m.
- Nov. 14, 12-2 p.m.
- Dec. 12, 5-7 p.m.

Leaving Your Job

Making a smooth transition from the working world onto disability takes planning. This seminar lays out a step-by-step timeline so you know what to expect when it's time to make the move. You'll also learn how to avoid some of the common debt pitfalls leaving a job can entail and how to handle the debt you may take with you into retirement.

Second Wednesday of the month

- July 12, 12-2 p.m.
- Aug. 9, 5-7 p.m.
- Sept. 13, 12-2 p.m.
- Oct. 11, 5-7 p.m.
- Nov. 8, 12-2 p.m.
- Dec. 13, 5-7 p.m.

Housing Law: Tenants' Rights and Responsibilities

Before you sign a lease or pay a security deposit, learn what to expect of your landlord and what your landlord can legally expect of you. This seminar covers all aspects of landlord-tenant law including security deposits, communicating with your landlord, qualifying and keeping housing subsidies, dealing with utilities, and the eviction process.

Second Thursday of the month

- July 13, 12-2 p.m.
- Aug. 10, 5-7 p.m.
- Sep. 14, 12-2 p.m.
- Oct. 12, 5-7 p.m.
- Nov. 9, 12-2 p.m.
- Dec. 14, 5-7 p.m.

Congratulations

Cathryn Miller-Wilson, Esq., has become deputy managing attorney of the AIDS Law Project of Pennsylvania, where she previously served as a staff attorney specializing in employment and financial matters for people with HIV/AIDS. She assumed her new responsibilities, including hiring and staff supervision, on May 1.

Cuts in Federal AIDS funding hit home

A heated national debate about the most equitable way of distributing AIDS care funding has already had expensive consequences for the AIDS Law Project of Pennsylvania, among other local AIDS services providers.

In March, the City of Philadelphia's AIDS Activities Coordinating Office (AACO) announced a 6.9 percent cut in funding to organizations not providing the "core" services of medications; primary medical, dental or mental health care; case management, or substance abuse care. Legal services such as those provided by the AIDS Law Project were not deemed to be core services.

The core list, reflecting the preferences of the federal Health Resources and Services Administration, was adopted by the local planning council.

Stressing that affected agencies are not being punished for poor performance, AACO Director John C. Cella said that "AACO does not consider the AIDS Law Project's service to be any less essential than any of the others." AACO, he said, is just the messenger passing along the "view down in D.C."

AACO prorated the cut among agencies that provide similar services. However, as the sole provider of legal services, the AIDS Law Project took a significant hit, losing \$84,000 for the 2006-2007 fiscal year, about 10 percent of its overall budget.

Ironically, the federal exclusion of legal assistance as a core service is being applied just as the value of legal services in health care is gaining ground elsewhere. (See the story on the expansion of a Boston program for disadvantaged children on page 7 of this issue of Good Counsel.)

Cella also said that last year "\$800,000 in cuts were not passed on to providers," but rather resulted in administrative economies within AACO. The result of that delaying tactic was that when this year's \$1,667,173 in cuts came down, there was no fat left to trim internally and AACO had to pass them along.

Welcome new faces



Clarence H. Brown, Esq., joined the AIDS Law Project of Pennsylvania's board shortly before accepting a position in the litigation department of Kirkpatrick & Lockhart Nicholson Graham, LLP of Boston. Before joining Kirkpatrick Lockhart, Clarence was a litigator with Morgan, Lewis & Bockius, LLP in Philadelphia, where he was involved in a number of *pro bono* activities. His work with the Pennsylvania Commission on Crime and Delinquency and the Hispanic National Bar Association earned him Morgan Lewis' Pro Bono Award in 2005. A *cum laude* graduate of the Temple University James E. Beasley School of Law, Clarence has a bachelor of science degree in biological sciences from Stony Brook University and an MBA from City University of Seattle. Prior to his legal career, Clarence was a chemist in the medical and environmental science fields.



Joseph S. Cohn, Esq., Staff Attorney, came to the AIDS Law Project after working at Sugarman & Associates in Philadelphia and Schonbrun DeSimone Seplow Harris & Hoffman of Venice, CA. Joe grew up in Las Vegas, NV, and graduated from the University of Nevada, Las Vegas, in 2000. He came to Philadelphia in 2001 to attend the University of Pennsylvania Law School and the Fels Institute of Government and is admitted to the bar in Pennsylvania and New Jersey. He serves as a mentor for Mentoring Matters, a program that pairs adults with inner-city youth who have an incarcerated parent.



Asha Ramachandran, Esq., the AIDS Law Project's new Public Benefits Attorney, comes to us from Community Legal Services. She also has volunteered with the SeniorLAW Center and the Philadelphia District Attorney's Victim/Witness Services Unit. Asha earned an attorney at law degree from Sri Lanka Law College in Colombo, Sri Lanka, in 1991 and a bachelor of law degree from The Open University of Sri Lanka in 2000. She followed several members of her family to the United States in 2000. Attorneys who attend law school outside of the United States can qualify to sit for the Pennsylvania Bar by earning 30 credits at an ABA-certified law school. Asha did her American studies at the University of Baltimore School of Law, in Baltimore, MD, and Widener University School of Law in Wilmington, DE. She was admitted to practice in May 2005. Asha is married to Anu Manoharan, a mechanical engineer.



Mehreen Zaman joined the AIDS Law Project staff in December as an Intake Paralegal after a year as a researcher with the University of Pennsylvania's Social Impact of the Arts Project. A 2005 graduate of Penn who majored in urban studies and sociology, Mehreen graduated *magna cum laude* and did internships with the Syracuse (NY) Housing Authority and the Philadelphia District Attorney's Office. An occasional artist, Mehreen works in pencil, pastels and watercolors.

... and bid farewell

After many years of service to the AIDS Law Project of Pennsylvania, most recently as president, **Sandra Thompson** steps down with our good wishes and heartfelt thanks. We also wish goodbye and good luck to paralegals **La Keya Chambers** and **Shelby Bour**. La Keya left us to relocate to Atlanta, GA, while Shelby is returning to her native Rochester, NY, to pursue a master's degree in social work.

In memoriam

It is with great sadness that the AIDS Law Project of Pennsylvania notes the passing of board member **James Thompson** on Jan. 2. James was the Program Coordinator for Behavioral Health at Greater Philadelphia Health Action, Inc., and had served on the board for a number of years.

A mix of legal & medical: A model that works

The AIDS Law Project of Pennsylvania has long helped clients whose health problems are complicated by discrimination and other barriers that legal intervention can often overcome. Over time that pioneering concept has evolved in other places as well.

"It's gratifying that the combined legal and health care model we pioneered has been working well enough to be duplicated elsewhere," says **Executive Director Ronda B. Goldfein, Esq.**, commenting on a Boston Medical Center (BMC) program that recently launched a nationwide expansion with the help of \$2.7 million in grants from multiple sources.

The BMC effort, known as the Family Advocacy Program, focuses on helping the children of low-income

families. An April story in the Boston Globe described how doctors who identify a legal element to a child's health issues can call upon lawyers who press for a solution to the problem.

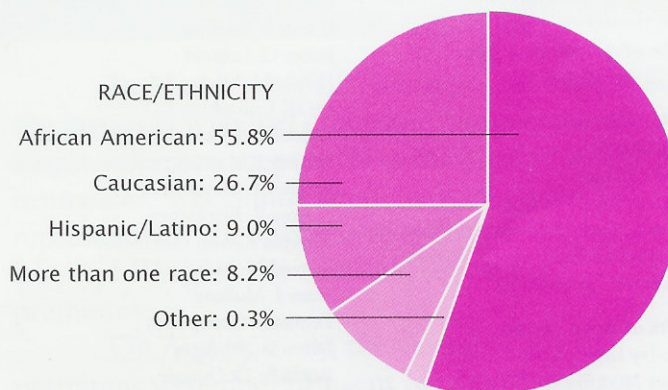
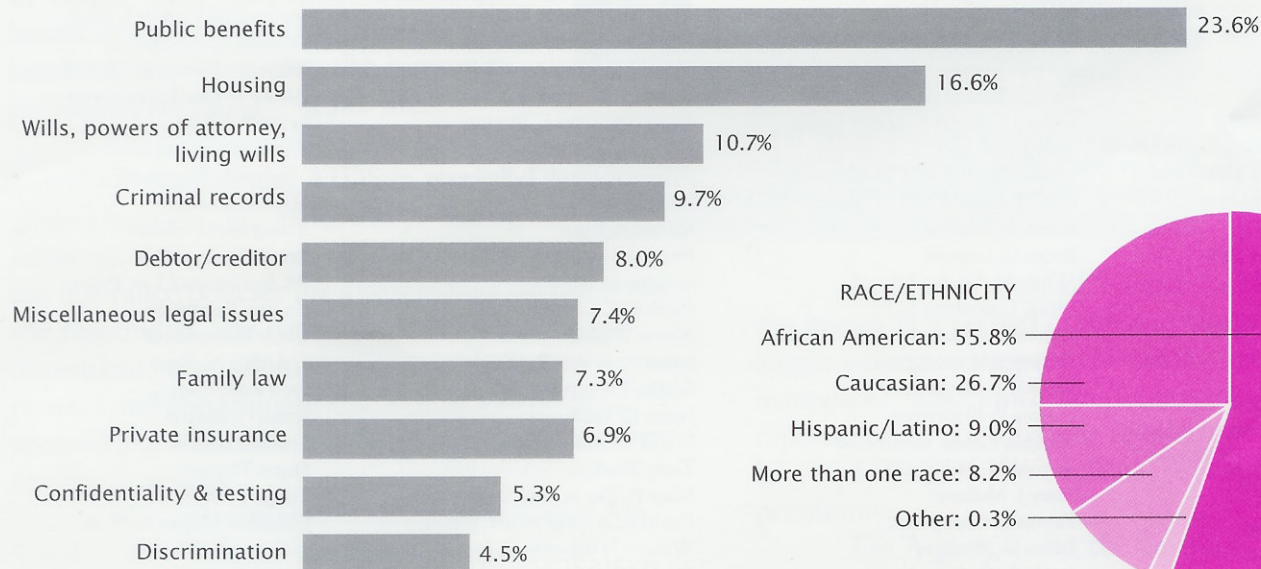
"The program will encourage doctors nationwide to diagnose not only medical issues in impoverished children, but also barriers to good health that the law can remove," the Globe story said. "They can range from relatively simple problems like eliminating indoor pollution caused by cigarette smoke from neighboring apartments to more complex matters, such as accessing safe and affordable housing and education."

The expanded BMC program will be renamed the Medical-Legal Partnership for Children.

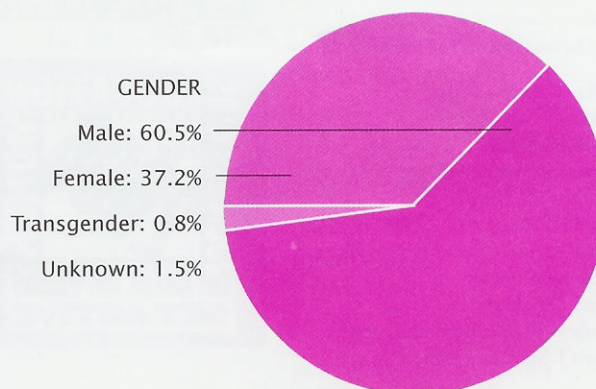
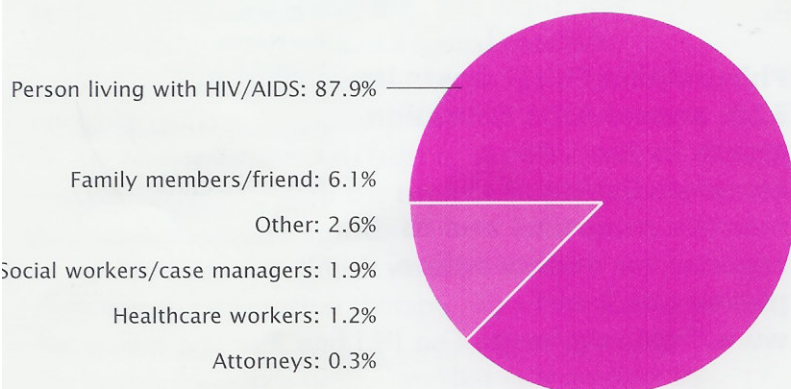
AIDS Law Project of Pennsylvania, Legal Services for 2005

Services to clients

(Many clients receive multiple services.)



Requests for legal assistance: 1,944



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